S.B.Civil Second Appeal No.295/2005

Ajmer Vidhyut Vitran Nigam Ltd. & anr.

vs.

M/s. Govind Granite & Marbles Pvt. Ltd.

Date : 25.8.2005

HON'BLE MR. PRAKASH TATIA, J.

Mr. Ravi Bhansali, for the appellants.

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Heard learned counsel for the appellants.

The appellants are aggrieved against the judgments and decrees of the two courts below. By the judgment and decree dated 31.1.1998, the trial court decreed the suit of the plaintiff and restrained the appellant from recovering any amount in pursuance of the order dated 17.6.1995. The appeal against the judgment and decree of the trial court was dismissed by the appellate court vide judgment and decree dated 29.3.2005. Hence, this second appeal.

According to learned counsel for the appellant, it was a case of total wrong calculation only and when the appellant came to know that wrong bills were issued after wrong calculation by applying wrong factor, then the appellants issued fresh bills to the plaintiff. It is submitted that it was not a matter which could be referred to the Electrical Inspector and the demand raised by the appellant is valid and, therefore, two courts below committed serious error of law in decreeing the suit of the

plaintiff.

I have considered the submissions of learned counsel for the appellants and perused the reasons given in the judgments of the two courts below.

It is clear that whatever bills were issued by the appellants to the plaintiff, the plaintiff paid and thereafter in the year 1995 only, the appellant raised a bill for the period in question on the ground that the appellants themselves committed mistake in calculating the demand. It is not a wrong calculation of meter reading only but it is a case of applying wrong factor by the appellant, therefore, it is clear that which factor should have been applied and which factor should not have been applied was relevant consideration for grant of injunction and all the facts have been considered by the two courts below.

Otherwise also, there is no justification for changing the stand after such an inordinate delay of more than six years as by that time, the consumer may not be in a position to contest the issue of wrong application of factor. Therefore, I do not find any substantial question involved in this appeal.

Accordingly, this second appeal, having no merit, is hereby dismissed.

(PRAKASH TATIA), J.

S.Phophaliya